



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,363	09/08/2003	Gene Gould	P 016417 305324	2112
7590 Pillsbury Winthrop LLP Intellectual Property Group Suite 200 11682 El Camino Real San Diego, CA 92130			EXAMINER EVANS, FANNIE L	
			ART UNIT 2877	PAPER NUMBER
			MAIL DATE 07/17/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/658,363

Applicant(s)

GOULD ET AL.

Examiner

F. L. Evans

Art Unit

2877

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20 and 21 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by White (US Re. 32,598), of record.

White discloses a reflection light transfer system including (a) an input mirror (21, 75), positioned substantially coaxial with an area (25, 78) to be illuminated, for directing incoming light to illuminate the area (25,78); and (b) an output mirror (32, 95), positioned substantially coaxial with the area to be illuminated and in reflective alignment with the input mirror (21, 75), for collecting, focusing, and directing light emitted by the area upon illumination. The output mirror is spherical (lines 31-32 of column 4, the sentence bridging columns 6 and 7 and lines 10-11 of column 8). Fluorescence emitted by the sample (area 25, 78) is emitted in all directions (line 40 of column 4) and some of the fluorescence is inherently collected, focused and directed by the output mirror (32, 95). Applicant's attention is directed to the above noted components in Fig. 1B and Fig. 3.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. § 103(c) and potential 35 U.S.C. § 102(e), (f) or (g) prior art under 35 U.S.C. § 103(a).

Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over White (US Re. 32,598) in view of Nevyas et al (US 4,355,871), both of record.

White discloses essentially every claimed feature except the input and output mirrors being first-surface mirrors. See the discussion of White in the rejection of claims 20 and 21, above.

In lines 20-38 of column 6, Nevyas et al disclose the advantages/desirability of using first-surface mirrors over using second-surface mirrors.

At the time the invention was made, it would have been obvious to one with ordinary skill in the art to use first-surface mirrors as the input and output mirrors in the system of White because of the advantages thereof set forth in lines 20-38 of column 6 of Nevyas et al.

Response to Arguments

Applicant's arguments filed November 7, 2005 with respect to the rejection of the claims under 35 U.S.C. § 102(b) and 35 U.S.C. § 103 (a) have been fully considered but they are not persuasive.

In line 40 of column 4, White discloses that the fluorescence from the sample is **emitted in all directions**. Both spherical mirrors 32 (Fig. 1B) and 95 (Figs. 3 and 5) receive a portion of the emitted fluorescence, since White does not disclose wavelength filtering means for preventing the fluorescence that is **emitted in all directions** from being incident on spherical mirrors 32 and 95. The portion of fluorescence emitted by the sample along with the excitation beam is collected, focused and directed by

Art Unit: 2877

spherical mirrors 32 and 95. As set forth in the above rejection of claims 20 and 21, White discloses a reflection light transfer system including (a) an input mirror (21, 75), positioned substantially coaxial with an area (25, 78) to be illuminated, for directing incoming light to illuminate the area (25,78); and (b) an output mirror (32, 95), positioned substantially coaxial with the area to be illuminated and in reflective alignment with the input mirror (21, 75), for collecting, focusing, and directing light emitted by the area upon illumination.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Fax/Telephone Numbers

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner whose telephone number is (571) 272-2414.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory J. Toatley, Jr. can be reached on (571) 272-2800 ext 77. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer

Application/Control Number: 10/658,363

Page 5

Art Unit: 2877

Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



F. L. EVANS
PRIMARY EXAMINER
ART UNIT 2877

file
July 9, 2007